



Office of Legal Services

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Mission: Each student is highly educated, prepared for leadership and service, and empowered for success as a citizen in a global community.

October 17, 2012

Via facsimile and U.S. Mail

Susan Tobin, Esq.
Disability Rights Ohio
50 West Broad Street, Suite 1400
Columbus, Ohio 43215-5923

Dear Ms. Tobin:

This letter is in response to the Investigative Report regarding Columbus City Schools' Use of Seclusion Rooms issued by Ohio Legal Rights Service (LRS) September 27, 2012.¹ Please be aware that in the interest of responding fully to the report, the District acknowledges there is student information below that is not subject to public release per FERPA and R.C. 3319.321.

There are several assertions in the report which are inaccurate or misleading. For example, the report states that the Ohio Department of Education (ODE) does not provide any regulation or oversight over the practices of restraint and seclusion. However, the report fails to acknowledge that on September 10, 2012, well over two weeks prior to the issuance of the LRS report, ODE issued a draft policy and regulation entitled "Standards concerning the implementation of positive behavior intervention supports and the use of restraint and seclusion." The draft policy and regulation would permit the continued use of restraint and seclusion in schools, subject to certain conditions. Columbus City Schools (CCS) awaits the final policy and regulation for guidance to further refine the District's current practices.

The report relies on unsupported hearsay and conjecture in an attempt to support its points, especially with respect to individual students. For example, the report states on page ten: "The parent reported the treating physician felt the infection was caused by the student lying in urine on the floor of the processing room." First, there is no evidence that the student was lying in urine and the parent did not witness any such incident. Second, there is no medical evidence to support the statement or even any indication the physician was ever contacted to verify the statement which the parent attributed to the physician.

In order to gain a full understanding of the issues that school staff are dealing with, it is important to understand the students they are dealing with. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹ Ohio Legal Rights Service has now become Disability Rights Ohio. However, since the report is identified as originating from Ohio Legal Rights Service, that name will be used throughout this document.

The Columbus City School District does not discriminate based upon sex, race, color, national origin, religion, age, disability, sexual orientation, gender identity/expression, ancestry, familial status or military status with regard to admission, access, treatment or employment. This policy is applicable in all district programs and activities.

It is the District's responsibility to keep everyone in that classroom safe, including the student, staff and the other students in the room. Sometimes that includes removing the student from the classroom to a place where his safety can be better maintained.

Ohio Legal Rights Service based its report and conclusions upon interviews with three parents of students who had been placed in processing rooms.³ The report incorrectly states on page 11 that it only received behavior observation/incident forms (BIOFs) from three schools and that it could only interview two parents from that group. In fact, the District provided BIOFs from ten different schools involving 80 students with 244 total incidents. Ohio Legal Rights Service only requested contact information regarding eight students. It never even requested contact information regarding the 72 other students about which it was provided BIOFs. Thus, the entire report is based upon a highly skewed sample.

At pages nineteen and twenty, the report contains eight bulleted items which are identified as recommendations for CCS. For convenience of discussion, those items will be identified as numbered items one through eight.

1. On September 10, 2012 the Ohio Department of Education (ODE) issued a draft Policy on Positive Behavior Interventions and Support, and Restraint and Seclusion as well as a draft administrative code section. The draft policy and regulation permit the continued use of restraint and seclusion in schools, subject to certain conditions. The District will await ODE's final regulation and is, of course required to abide by its regulation. The District is investigating the use of sensory rooms in addition to processing rooms and the use of those rooms would include training of staff.
2. The District currently uses Crisis Prevention Institute (CPI) procedures in dealing with inappropriate and extreme student behavior. The District has never used and there is no evidence to support that the District has ever used mechanical, chemical or aversive behavioral interventions with students. In addition, basket holds and prone holds are never permitted. Prone restraints were specifically banned by an Executive Order of the Governor in 2009 and the use of transitional holds are subject to conditions.
3. The District informs and trains its special education staff that physical interventions are only to be used when the child poses a danger to him/herself or others. Staff is reminded of this point during its CPI yearly training and from the Chief Officer of Student Support Services.
4. Staff members are instructed to have direct, constant visual supervision of students who are in a processing room.
5. Columbus City Schools implemented PBIS district-wide during the 2006-2007 school year and it has been used since that time. In addition, staff working with special education students must undergo a three hour CPI refresher training once a year in addition to the required initial eight hour training. CPI training covers a continuum of options for working with difficult students including, verbal de-escalation and verbal intervention.

² [REDACTED]

³ *LRS claims it received incorrect contact information for two students and thus could not contact those parents. Columbus City Schools has a highly mobile student population and parents do not always provide updated information to the District when they move. Had LRS notified CCS of the issue with the contact information, CCS could have followed up with those parents to verify that it had the correct information.*

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6. Crisis intervention is utilized on a case by case basis depending upon the needs of the student and as outlines in the student's Individualized Education Program (IEP). The District is always interested in learning ways to reduce the need for crisis intervention in order to better assist its students.
7. ODE has an established complaint process, as required by federal and state law. As further required, all parents receive at least one copy of Whose IDEA Is This? which provides information to parents as to how to assert their rights under the IDEA. In addition, districts are required to present parents with Prior Written Notice detailing parental rights any time there is a disagreement regarding eligibility or placement. Thus, there is a complaint process already available to parents.
8. District staff are required to notify parents on the same day that a student is placed in a processing room and are available to meet with staff to discuss behavioral incidents and issues.

Supporting documentation regarding the statements above was previously submitted to LRS during its investigation. Additional copies of those documents will be provided upon request. The District is committed to serving the educational needs of all students in the District. It will continue to work on training and monitoring of staff to ensure that the policy, procedures and guidelines established by the District are followed. If the District learns that those items are not being followed, it will take appropriate action as necessary.

Sincerely,

Wanda T. Lillis

C: Gene T. Harris, Ph.D., Superintendent
Gilda Battle Taylor, Interim Chief Office
Amy Dennis, Director Exceptional Children